

ARLINGTON CONSERVATION COMMISSION

PREPARATION and FILING INSTRUCTIONS

For: Request for Determination of Applicability (RDA)

Notice of Intent (NOI)

Abbreviated Notice of Intent (ANOI)

Notify the Arlington Conservation Office (781-316-3012, email concomm@town.arlington.ma.us) when you intend to file for a permit to do work under the State of Massachusetts Wetlands Protection Act (hereafter “**ACT**”) and/or the Town of Arlington Bylaw for Wetland Protection (hereafter “**BYLAW**”) for a pre-filing consultation and hearing date. The applicant will be assigned a date, time and location for the public hearing so this information may be incorporated into the abutter's notification which, according to the ACT, must be mailed the day of filing at the Conservation Office. The ACT, its regulations, forms and instructions are available from the Department of Environmental Protection (DEP) at 617-654-6500 or at <http://www.mass.gov/eea/agencies/massdep/service/approvals/wpa-form-3.html>. These same forms are used for filing under the By-Law.

The online address for the Massachusetts Wetlands Protection Act is <http://www.mass.gov/legis/laws/mgl/131-40.htm> and the Massachusetts Wetlands Protection Act Regulations is <http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-10-00-wetlands-protection-act-regulations.html#1>. Arlington's Wetland Protection Bylaw and Regulations are available at <https://www.arlingtonma.gov/town-governance/all-boards-and-committees/conservation-commission/regulations>. Local regulations for the Wetlands Protection Act explaining Consultant fees have also been promulgated.

I. FILING AND PUBLIC HEARING PROCEDURES

A. Forms to File:

Review the ACT and its Regulations and the BYLAW and its Regulations to determine which form should be used for the proposed project: **Request for Determination of Applicability** (hereafter **RDA**), **Notice of Intent** (hereafter **NOI**) or **Abbreviated Notice of Intent** (hereafter **ANOI**). Since the ACT and the BYLAW are administered concurrently by the Commission, it is only necessary to complete one application form when filing under both laws. Note that copies of some forms must also be filed with the state Department of Environmental Protection in order to obtain a file number. A file number is needed for the Commission to issue a permit decision.

See APPENDIX 1 for checklist of material to file and APPENDIX 2 for the number of copies to file.

B. Additional Material:

After review by the Conservation Commission and staff, additional material may be requested prior to the public meeting. If there is time, it may be incorporated into the plan and information. Additional information may also be requested by the Commissioners as a result of the presentation at the public hearing.

Omission of information at any stage may require that the public hearing be continued pending receipt of the information. If the applicant fails to provide the requested information, the Commission may deny the permit.

C. Public Hearing: A public hearing is held for each filing where the application is presented to the Commission and the public by the applicant and/or representative/s. The plans for the presentation should be colored/shaded so pertinent features are clearly visible to the Commission and the public. As required by law, notice of this hearing is given as follows:

1. Notification to Abutters by Applicant - As required in the ACT and BYLAW, notification of the public hearing must be mailed, at the expense of the applicant, to all abutters within 100 feet of the work area, the day of filing the application. A certified abutter's list must be obtained from the Town Assessor's Office. Please see APPENDIX 4 for the format to be used for this notification. A copy of this notification and the certified abutter's list, and a signed 'Affidavit of Service' (APPENDIX 5) must be submitted as part of your application package.

*If filing a NOI or ANOI, abutter's must be notified via certified mail, however, if filing a RDA, notification via regular mail is sufficient.

- C. 2. **Legal Notice** - Notice of the date, time, and place of the public hearing on the application must be placed in a newspaper of local circulation by the Conservation Office at the expense of the applicant. Notice must be posted at least five business days before the date of hearing. For publication in *The Arlington Advocate*, the applicant shall sign and submit to the Conservation Office the Legal Notice Charge Authorization Form (See APPENDIX 6) at least 10 business days prior to the date of public hearing.
- D. **Schedule Planning:**
1. **Public Hearing** - The Commission meetings generally are held first and third Thursdays of each month. Check with the Conservation Office at 781-316-3012 or email concomm@town.arlington.ma.us for the meeting schedule. Copies of the application must be filed with the Commission office at least 10 business days before the meeting at which the project is scheduled to be presented.
2. **Site Visit** - The Commission may call for a site visit during evenings or weekends before closing the public hearing. The applicant or representative should call the Conservation Office at 781-316-3012 or email concomm@town.arlington.ma.us to coordinate the site visit.
3. As described in I.C.2. above, due to its publishing deadline and schedule, legal notices must be submitted to *The Arlington Advocate* at least ten business days before the public hearing.
- E. **Filing Fees:** See APPENDIX 3 for fee schedules.

II. **RESPONSIBILITY OF THE APPLICANT (RDA applications are required to only complete A through C below).**

- A. **Preparation of Application Materials:** See APPENDIX 1 for Checklist.
- B. **Notification of Abutters:** See Public Hearing I.C.1. above and APPENDICES 4 and 5 below.
- C. **Site Flagging Prior to Filing and the Public Hearing**
It is useful to have flagged stakes installed at the project site for the Commission's site visit to mark the following features:
- 1) the wetland boundary with the flags numbered corresponding to the numbers shown on the plan; and
 - 2) the corners of proposed buildings and drainage systems and delineation of roadways nearest the protected resource areas, with the specific location noted on the flags to correspond to the plan.
- D. **MA National Heritage & Endangered Species Program**
If applicable, submit a copy of the Notice of Intent. (See *NOTE below) A copy of the current Estimated Habitats of Rare Wetlands Wildlife & Certified Vernal Pools Map for Arlington is available for review in the Conservation Office (781-316-3012, email concomm@town.arlington.ma.us). Mail the Notice of Intent (or Abbreviated Notice of Intent) to: **Natural Heritage and Endangered Species Program, Massachusetts Division of Fisheries and Wildlife, 1 Rabbit Hill Road, Westboro, MA 01581.**
- E. **US Army Corp of Engineers Permit**
If applicable, submit a copy of the Notice of Intent. (See *NOTE below).
- F. **401 Water Quality Certification**
Required on notification from DEP.
- G. **DEP Division of Waterway M.G.L. 91 License**
Required on notification from DEP or Arlington Conservation Commission.

***NOTE:** Although the instructions detailed in this document generally incorporate all of those included in the ACT's Regulations, "General Instructions for Completing Notice of Intent" (310 CMR 10.99), should also be reviewed. Specific detail for items D through G are included in that form.

III. THE DECISION

The Commission shall make a decision on the Notice of Intent based on information and material filed, the site visit and information presented at the meeting. If more information is needed, the meeting may be continued in compliance with applicable State and Town laws. If the applicant fails to provide the requested information, the Commission may deny the permit. A file number and any comments from DEP must be received in order for the permit to be issued. The decision shall be issued within 21 days of the closing of the public hearing.

APPENDIX 1

CHECKLIST OF INFORMATION TO BE FILED

- I. Request for Determination of Applicability, Notice of Intent, Abbreviated Notice of Intent and Supplemental Form for Riverfront [Stream] Area**, if applicable, with the following support material.
- A. 8-1/2 x 11" USGS Quad Map noting project area.
 - B. 8-1/2 x 11" Flood Plain Map of area (FEMA FIS maps available for viewing at the Conservation Office and at the Town website).
 - C. Narrative – explanation of purpose, details and images to clarify the proposal.
- II. Plan(s)** (Required Format and Information)
- A. Plan(s)**
- 1. Topographic plan prepared by an engineer, land surveyor, or landscape architect registered in Massachusetts showing existing conditions.
 - 2. Site analysis plan, if topography is very irregular.
 - 3. If more than two sheets are required to detail the proposed work, provide cover sheet showing a composite of all work proposed and an index of the sheets.
- B. Format and Information**
- 1. Scale - no smaller than 1" = 50'.
 - 2. Sheet Size - 8-1/2" X 11" to 24" X 36". Larger sheets may be used for complex large projects.
 - 3. Title Block - located in the right-hand corner or on the right side, shall incorporate name and address of the project; name of the property owner or applicant; name, address and imprint of the professional consultant responsible for the preparation of each sheet; date and revision date(if any); and sheet title and number.
 - 4. Other - north arrow, graphic scale, a legend defining signs and symbols used on the plan and not otherwise explained; revision date chart; location of ground water borings and the soil profile resulting from borings.
 - 5. Plan Graphics - existing conditions screened or lighter with topographic contours shown as dashed lines; and proposed conditions clearly differentiated from the existing conditions by use of heavier or bold lines with topographic contour changes shown in solid lines. The contour lines must correspond to known elevations on existing bench marks and to the existing and proposed grades of streets.
 - 6. Delineate the following:
 - a) Wetland boundary, showing flags numbered to correspond with numbered flags installed at the site; b) 1% Annual Chance Flood Hazard boundary; c) the 50 and 100 foot wetland buffers; d) 200 foot Riverfront Area; e) the erosion control barrier; f) the limit-of-work line or note if the same as the erosion control barrier; g) recorded easements or restrictions on or crossing the property and location of proposed conservation restrictions noting the total restricted area; and h) streets abutting the project, their grades and the utilities to which connections are proposed.
 - 7. Details of following (if applicable):
 - a) utilities and systems pertaining to mitigating stormwater runoff to comply with DEP's Stormwater Standards 1-9 and other drainage systems; and b) erosion control barriers and limits of work.
 - 8. Elevations or sections of buildings, retaining wall or other structures, or landscaping to define design approach to wetland protection.

9. Stamped Certification from a Land Surveyor or Civil Engineer, acceptable to the Building Department.

III. Stormwater Management Form

To ensure that proposed stormwater control designs meet DEP's Stormwater Management Policy. (See further explanation on the form.)

IV. Drainage Calculations

If applicable, provide drainage calculations to support systems or design features proposed to mitigate impact on the wetlands to comply with *DEP's Stormwater Management Policy*.

APPENDIX 2

CHECKLIST **COPIES TO BE FILED**

<u>ITEMS</u>	NUMBER OF COPIES	
	<u>TO TOWN</u>	<u>TO DEP-NERO</u>
1. Application form and supporting information	9	1
2. Plan/s	9	1
3. Stormwater Management Form (if required)	9	1
4. Wetlands Filing Fee Calculations Worksheet (ACT)	1	1
5. NOI Fee Transmittal Form (ACT) (if applicable)	1	1**
6. By-Law Fee Transmittal Form (APP. 3)	1	N/A
7. Certified List of Abutters (copy)	1	1
8. Abutters Notification	1	1
9. Abutters Affidavit of Service	1	1
10. Legal Notice Charge Authorization (APP. 5)	1	N/A
(Signed)		
11. <u>Fees Submitted</u>		
To "Town of Arlington" (By-Law)	check	N/A
To "Town of Arlington" (under the ACT, if applic)	check	copy**
To "Commonwealth of Massachusetts" (ACT, if applic)	copy	check**

**Fee calculated and transmitted as detailed on the DEP Notice of Intent Fee Transmittal Form.

Application forms for Arlington are submitted to the DEP Northeast Regional Office, 205B Lowell St, Wilmington, MA 01887

Filing Instructions:

1. Send the multiple printed copies to: Conservation Agent, Arlington Conservation Commission, Town Hall, 730 Massachusetts Ave, Arlington, MA 02476.

2. The applicant is required to submit 7 of these copies in individual envelopes with postage applied to each so that the Conservation Agent is able to attach mailing labels and post these as soon as they are filed. The postage shall be First Class US mail (**not** certified, return-receipt requested **nor** insured) and is only local post from 02476 to 02476 or 02474.

3. A scanned or electronic copy of the filing materials are required in a single pdf, and shall be emailed to concomm@town.arlington.ma.us. If the total file size is large (>10 Mb), submit the application via an online file sharing link (i.e. Dropbox) or send a disc copy by regular post.

4. The Commission may also request that an additional printed copy of the submittals be sent to:

Reference Desk, Robbins Library, 700 Massachusetts Avenue, Arlington, MA 02476

APPENDIX 3
BYLAW FILING FEES and TRANSMITTAL FORM

Rules:

1. Fees are payable at the time of filing the application and are non-refundable.
2. Fees shall be calculated per schedule below.
3. Town, County, State, and Federal Projects are exempt from fees.
4. These fees are in addition to the fees paid under M.G.L. Ch. 131, s.40 (ACT).

Fee Schedule (ACC approved 1/8/15):

<u>\$</u>	<u>NO./Area</u>	<u>Category</u>
_____	_____	(R1) <u>RDA</u> - \$150 local fee, no state fee
_____	_____	(N1) <u>Minor project</u> - \$200 (house addition, tennis court, swimming pool, utility work, work in, on or affecting any body of water, wetland or floodplain).
_____	_____	(N2) <u>Single Family Dwelling</u> - \$600
_____	_____	(N3) <u>Multiple dwelling structures</u> - \$600 + \$100 per unit all or part of which lies within 100 feet of wetlands or within land subject to flooding.
_____	_____	(N4) <u>Commercial, industrial, and institutional projects</u> : \$800 + 50¢/s.f. wetland disturbed; 2¢/s.f. land subject to flooding or buffer zone disturbed.)
_____	_____	(N5) <u>Subdivisions</u> . \$600 + \$4/l.f. feet of roadway sideline within 100 ft. of wetlands or within land subject to flooding
_____	_____	(N6) Other Fees: <u>copies, printouts</u> - Per public records law
_____	_____	(N7) <u>Minor project change</u> - \$50
_____	_____	(N8) <u>Work on docks, piers, revetments, dikes, etc</u> – \$4 per linear foot
_____	_____	(N9) <u>Resource boundary delineation (ANRAD)</u> - \$1 per linear foot
_____	_____	(N10) <u>Certificate of Compliance (COC or PCOC)</u> – No charge if before expiration of Order, \$200 if after that date.
_____	_____	(N11) <u>Amendments</u> - \$300 or 50% of original local filing fee, whichever is less
_____	_____	(N12) <u>Extensions</u> a. Single family dwelling or minor project - \$100.
_____	_____	b. Other - \$150.
_____	_____	(N13) <u>Consultant Fee</u> Per estimate from consultant
_____	TOTAL	

Note: Submit this form along with the forms submitted for the ACT - the "Wetlands Filing Fee Calculations Worksheet," and the "Notice of Intent Fee Transmittal Form."

APPENDIX 4

ABUTTER NOTIFICATION MODEL

**Notification to Abutters Under the
Massachusetts Wetlands Protection Act
And Arlington Wetlands Protection Bylaw**

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, and the Arlington Wetlands Protection Bylaw, you are hereby notified of the following:

The Conservation Commission will hold a public hearing in the second floor conference room of the Town Hall Annex, 730 Massachusetts Avenue, Arlington, on Day of Week, Month, Year, at Time in accordance with the provisions of the Mass. Wetlands Protection Act (M.G.L. Ch. 131, s. 40, as amended) and the Town of Arlington Bylaws Article 8, Bylaw for Wetland Protection, for a Notice of Intent (or Request for Determination of Applicability) from applicant, for project description at project address or location, within 100 feet of a wetland OR 200 feet of a Riverfront OR a floodway, on Assessor's Property Map/s # , Lot/s # .

A copy of the application and accompanying plans are available for inspection Mon. - Thurs. 8am-4pm and Fri. 8am-noon at the Conservation Commission office, first floor of the Town Hall Annex, 730 Massachusetts Avenue, Arlington, MA 02476.

For more information call the applicant at phone number or the Arlington Conservation Commission at 781-316-3012, or the DEP Northeast Regional Office at 978-694-3200.

NOTE: Notice of the Public Hearing will be published at least five (5) business days in advance in *The Arlington Advocate* and will also be posted at least 48 hours in advance in the Arlington Town Hall.

The meeting information for your hearing is:

Date:

Time:

APPENDIX 5

AFFIDAVIT OF SERVICE

(Return to Conservation Commission)

I, _____, being duly sworn, do hereby state as follows: on _____, I mailed a “Notification to Abutters” in compliance with the second paragraph of Massachusetts General Laws, Chapter 131, s.40, the DEP Guide to Abutter Notification dated April 8, 1994, and the Arlington Wetlands Protection Bylaw, Title V, Article 8 of the Town of Arlington Bylaws in connection with the following matter:

The form of the notification, and a list of the abutters to whom it was provided and their addresses, are attached to this Affidavit of Service.

Signed under the pains and penalties of perjury, this _____ day of _____,

Name

APPENDIX 6

LEGAL NOTICE CHARGE AUTHORIZATION

DATE:

TO: legals@wickedlocal.com

I hereby authorize Community Newspapers to bill me directly for the legal notice to
be published in the Arlington Advocate newspaper on_____ for a public
hearing with the Arlington Conservation Commission to review a project at the following
location: _____

Thank you.

Signed: _____

Send bill to:

_____ (Address)

_____ (Phone)